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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/055,240 04/06/98 YEO

W 0937-0120P

LM02/0709
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EXAMINER

NEYZARI, A

ART UNIT

PAPER NUMBER

2752

DATE MAILED:

07/09/99

LW Docketed

10-9-99

Amend

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks



Office Action Summary

Application No.
09/055,240

Applicant(s)

Yeo

Examiner

ALI NEYZARI

Group Art Unit

2752



☒ Responsive to communication(s) filed on Apr 27, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-32 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-4 and 7-32 is/are rejected.

☒ Claim(s) 5 and 6 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☒ The proposed drawing correction, filed on Apr 22, 1999 is ☒ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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Part III DETAILED ACTION

The application papers are objected to because they are not a permanent copy as required by 37 CFR 1.52(a).

Applicant is required either (1) to submit permanent copies of the identified parts or (2) to order a photocopy of the above identified parts to be made by the Patent and Trademark Office at applicant's expense for incorporation in the file. See MPEP § 608.01.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 7-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over admitted prior art disclosed in the specification in view of Fukushima et al (US 5,111,444).

Admitted prior art discussed in pages 1-4, in table 1, and in Figs 1-2, disclosed an optical disk which comprises of a main area which store digital data. The main area is divided into plural zones. There are spare area in each of the zones of the main area. A size of the spare area is

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varied in a radial direction of the disk. Admitted prior art disclosed the claimed invention except for the rate of the spare area in each of the zones being constant (table 1) rather than being variable (table 2 or 3).

By definition, % of ratio of "size of spare area" (No. of blocks) to "size of recording area" (No. Of blocks) is the rate (%). In admitted prior art the size of recording area (No of blocks) are the same as that of the invention, the size of spare area (No of blocks) are variable in prior art as it is the case in the invention, however the rate(%) is constant in prior art as it is variable in the invention. Selecting different No. Of blocks in spare area in order not to have a constant rate (%) is just a matter of design choice as it has been represented in the admitted prior art and also by Fukushima et al and it would have been an obvious matter of design choice for one with ordinary skill in the art to choose different No of blocks for the spare area.

Allowable Subject Matter

Claims 5-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **ALI NEYZARI** whose telephone number is **703-308-4906**. The examiner can normally be reached on **MONDAY-THURSDAY** from **7:00 AM** to **5:30 PM**.

The fax phone number for this Art Unit is **703-305-9731**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is **703-305-3800**.

Ali Neyzari
Primary Patent Examiner
Art Unit 2752
6-27-1999


ALI NEYZARI
PRIMARY EXAMINER